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Attorney Docket No. 888002.0012

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PTO
U.S. PATENT & TRADEMARK OFFICE
AUG 15 2006
In re application of: Dennis Smith)
Serial No.: 10/813,947)
Filed: March 31, 2004)
For: Exercise Element)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF MAILING 37 CFR 1.10

Dear Sir or Madam:

I hereby certify that the attached:

1. Response to Notice of Incomplete Reply (7 pages)
2. Copy of Notice of Incomplete Reply (2 pages) and,
3. Postcard; and

this Certificate of Express Mailing are being deposited with the United States Postal Service on August 15, 2006, Pursuant to 37 CFR 1.10, in an envelope as "Express Mail Post Office to Addressee," Mailing Label Number EV776740227US, addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Respectfully submitted,

Date: August 15, 2006
By: Howard B. Rockman
Howard B. Rockman
Registration No. 22,190



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,947	03/31/2004	Dennis Smith	36538/95593	7494
7590	07/27/2006			
BARNES & THORNBURG LLP 600 1st Source Bank Center 100 North Michigan South Bend, IN 46601-1632		OIBK AUG 15 2006 PATENT & TRADEMARK OFFICE	EXAMINER AMERSON, LORI BAKER	ART UNIT 3764
DATE MAILED: 07/27/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Notice of Non-Compliant Amendment (37 CFR 1.121)	Application No.	Applicant(s)	
	10/813,947	SMITH, DENNIS	
	Examiner Lori Amerson	Art Unit 3764	
<p>-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address</p> <p>The amendment document filed on _____ is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.</p> <p>THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:</p> <p><input checked="" type="checkbox"/> 1. Amendments to the specification: <input type="checkbox"/> A. Amended paragraph(s) do not include markings. <input type="checkbox"/> B. New paragraph(s) should not be underlined. <input type="checkbox"/> C. Other _____</p> <p><input type="checkbox"/> 2. Abstract: <input type="checkbox"/> A. Not presented on a separate sheet. 37 CFR 1.72. <input type="checkbox"/> B. Other _____</p> <p><input type="checkbox"/> 3. Amendments to the drawings: <input type="checkbox"/> A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d). <input type="checkbox"/> B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required. <input type="checkbox"/> C. Other _____</p> <p><input checked="" type="checkbox"/> 4. Amendments to the claims: <input type="checkbox"/> A. A complete listing of all of the claims is not present. <input type="checkbox"/> B. The listing of claims does not include the text of all pending claims (including withdrawn claims) <input type="checkbox"/> C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended). <input type="checkbox"/> D. The claims of this amendment paper have not been presented in ascending numerical order. <input checked="" type="checkbox"/> E. Other: <u>See Continuation Sheet</u>.</p> <p><input type="checkbox"/> 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):</p>			

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a Quayle action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

Extensions of time are available under 37 CFR 1.136(a) **only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a Quayle action.**

Failure to timely respond to this notice will result in:

Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a Quayle action; or

Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

Legal Instruments Examiner (LIE), if applicable

LORI AMERSON
PRIMARY EXAMINER

Telephone No.

Continuation of 4(e) Other: The numerical dependency of claims 19-23 is not consistent with the independent method claim 18. Correction is required.

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